

MINUTES
Planning Board
October 6, 2010
7:00 PM

Members Present: William Horton, Chair; David Fowler, Donna Hovey, Lynne Potter, James Macklin and Frank Braman

Staff Present: Elwin Thorpe – Code Enforcement Officer; James Seymour – Planning Board Consultant and Sandy Fredricks – Secretary.

Public Present: Theresa Cosgrove, Brian Cosgrove, Linda Horton, Kay Lawson, Barry Hobbins, Esq.; Erika Frank, Esq.; Bob Gashlin, Matt Hoidel, Pat Clark, Dave Kamila and Joe Chalal

7:00 P.M.

Dave calls the meeting to order and states that since Bill is sitting in the audience, the first order of business is to elect an Acting Chair.

Lynne nominates Dave as Acting Chair.

Donna seconds the nomination.

No further nominations are made and Dave calls for a vote.

All in favor? 5 yes – 0 no

Minutes from September 13, 2010

Donna moves to accept the Minutes of September 13, 2010 as written.

Lynne seconds the motion.

Any discussion? None.

All in favor? 5 yes – 0 no

Dave states the next order of business is the cell tower.

Frank asks if he will be a voting member this evening.

Lynne moves that Frank be considered a voting member for this meeting.

Donna seconds.

Any discussion? None.

All in favor? 5 yes – 0 no

Dave states the Board has received additional information from Mr. Hobbins, correspondence from the Town's attorney and a letter from Ms. Frank, attorney for the abutters which is dated after Ms. Burns' letter to the Board.

The Board discusses Ms. Frank's letter and that the Board is of the general opinion that the advice they have received from Ms. Burns of the Board not having any involvement in those issues between the abutters and the

landowner who is leasing the property to AT&T is correct. Those are civil issues and the Board has no involvement or authority to deal with those issues.

Jim Seymour states it is his recommendation to (1) discuss the sitewalk and the issues that arose from it and (2) proceed one step at a time to fully review the application.

Mr. Hobbins again introduces himself to the Board and those present. He continues to recap the sitewalk was held and applicant did successfully put up the balloon to give visual effect. Mr. Hobbins states that there was question raised at the sitewalk about the sounds that would result from this project. He only found noise limits in the ordinance under light commercial uses and that was 65dB measured from the property lines.

To address the noise issues, he continued, the only sounds produced will be from the HVAC and emergency generator. The HVAC system is air conditioning for the equipment shelter and will not produce more noise than an ordinary air conditioning unit. As for the use of the generator, it is for emergency use only and will not operate constantly. The applicant does not believe it is obligated to provide sound information, however, in the interest of being good neighbors and to show we are taking all the steps to comply with this request, we have ordered a sound study.

Mr. Hobbins goes on, in Jim Seymour's Memo of September 27, 2010, Jim outlines all of the issues and feels it is best for Jim to go through these items and the applicant will respond to each and every provision. He continues, the ordinance calls for stamped plans and presents plans that have been signed and stamped by the engineer.

Mr. Hobbins states, just as a point of information for the Board, he received a Summons & Complaint of suit to Quiet Title which he believes is just to try to stop the Board from proceeding. Normally a Quiet Title action names all parties who have title in a subdivision; in this case it is only AT&T Mobility who is a named defendant. He has provided a copy of this Summons and Complaint to Natalie Burns.

Dave asks if they have any idea what the sound output is of the two pieces of equipment. Bob Gashlin states that on C-1 you can see the closest property line is at least 200' from the facility. They are locating the equipment so as to have minimal impact; however, the sound differs depending where the generator and HVAC are located, but it is normally between 35 dB – 47 dB.

Jim Seymour states that the Zoning Ordinance, under Site Plan, on Page 101, Section L reads:

“L. Environmental Considerations:

1. Adequate provision shall be made to control noise, vibrations, smoke, heat, glare, fumes, dust, toxic matter, odors and electromagnetic interference generated by proposed uses or activities on the site. As a general standard, these impacts shall not be readily detectable at any point along lot lines so as to produce a public nuisance or hazard.
2. Storage of hazardous materials shall comply with the Casco Hazardous Materials Ordinance.”

Dave directs the discussion back to the sitewalk. He states he noted at the sitewalk that they are not utilizing the existing tail and that it appeared to be to maintain grade. He continues they also talked about cutting and filling and now that he has the stamped plans, he is satisfied. Further, the only place he could see the balloon was right near the site and he did go look from Hacker's Hill. Lynne states she came in from Johnson Hill and Webbs Mills and didn't see it. Dave states he feels that where it is proposed is as stealthy as you can get for a tower.

Bill Horton asks Dave how he could not see the balloon from Hacker's Hill when he sees both towers on the hill from his yard any time it is light. Dave states he is uncertain why, but he did not see the balloon from up there.

Ms. Frank asks the Board to keep in mind the abutters views, obviously, they can see it on-site. Also, please consider that the leaves will be falling and we don't want the abutters to loose value on their properties.

Jim Seymour begins review of his Memo. Under section 8.8.1 Requirements for a New Tower, items 1, 2 and 3 have been fulfilled. Item 4, we have just received stamped plans. Jim states he will meet with Elwin and review the plans for adequacy of icing and wind gust conditions as the 1" icing seems a little light, but they will review to be sure they fall within the guidelines. Mr. Hobbins states they will build it to the specifications of the Code Enforcement Officer and Professional Engineer. Jim Seymour states this falls under Performance Standards, Item #3, “The applicant's engineer shall provide documentation showing that the proposed WCT meets or exceeds the most current standards of the American National Standards Institute ANSI/EIA/TIA-222 for Cumberland County relative to wind and ice loads when the tower is fully loaded with antennae, transmitters, and other equipment as described in the submitted plan.”. Dave states he would like to see this as a condition of approval.

Jim Seymour continues with his Memo review:

Item 5 has been fulfilled. Item 6, the construction costs have been fulfilled, however the deconstruction seems low. Mr. Hobbins states one of the reasons it may be considered low is if you take into consideration other co locators could potentially come into play. Those types of agreements, when co locators come before the Board, then you could ask for additional funds relative to this issue.

Dave states he agrees that the deconstruction funds are low and co locators have no bearing on it. Bob Gashlin states the removal process is pretty straight forward the majority of the cost is getting the crane in for two days. He continues by asking the Board if \$35,000 would be acceptable rather than the \$20,000 bond. The Board and applicant discuss various amounts at length.

Jim Seymour states they need to address the buffering pursuant to 8.8.2 e. and 8.8.9 d. Jim S. asks about the tree canopy. Applicant states that information is shown on the plans submitted tonight on page C-3B. Upon A cursory review of Page C-3B, it is noted that the percentages of coniferous and deciduous trees are inverted and need to be corrected. Jim S. continues that the landscaping and buffering are huge issues and need to be addressed.

Dave state he believes there is enough buffering in place and his question is if they want to put a deed restriction in to ensure that buffer is maintained. Jim S. states that within the fall-down zone of the tower there will be no cutting.

Discussions continue between Board and applicant regarding the access road and that the property owner has indicated to applicant he may wish to keep the access road and possibly extend it and the only way to do so would be due North and that would not impact the buffering to the East. Dave states he would like to see language in the Decommissioning Statement that if the landowner at the time of decommissioning wishes to maintain the access road, they may do so.

Dave asks if the Board feels obligated to come up with a buffering plan. Jim S. states they have agreed to the fall-down zone as buffer and suggests if they want to amend that, it has to come back before the Board. Dave stated he doesn't want to see it as a deed restriction as then it would run with the land forever and this is a finite term lease. Jim S. also suggests that markers be placed for the buffer zone to prevent cutting in the future. Applicant states there are gravel indicators on the plans with the 150' buffer; applicant asks for confirmation that they also need to put markers in the field. The Board informs they need markers in addition to the gravel indicators. Jim S. states they also need to put language on the plan that any alteration comes before the Board.

Jim S. continues to review his memo: Item 8 is okay, the compound will be gated, but there will be no gate at the beginning of the access road.

Item 9, Jim S. states he would like to see the elevations on the plans for relationship between tree canopy and tower.

Item 10, Jim S. states he will review the items submitted tonight and verify if all the information is correct.

Item 11, Jim S. states we still need NEPA report, but it could be a condition of approval.

Jim S. states we will move into Site Plan Standards pursuant to his Memo: Item A. Preservation of Landscaping - Jim S. states after tonight's discussions the Board will have a better idea of what is proposed.

Item B. Relation of Proposed Buildings to the Environment – DEP standard is 45 dB at property line in quiet zone and our ordinance shows 65 dB in light manufacturing. Jim S. asks if they will be putting mufflers on the generator. Bob Gashlin states that the “skins” of the generators come in different sound muffling capacities. Jim S. asks if it could be contained in the shelter. Mr. Hobbins states he thinks that is overkill. Bob Gashlin states they are placing it on the side of the mountain to help muffle the sound. Jim S. states the Board may wish to have them do a noise study.

Ms. Frank states that where the ordinance requires collocation, co locators would require additional generators and when they are added it will amplify the sound. She continues that another point is the generator tests being done during business hours; the abutters are retired and don't want to hear it at certain times.

Bill Horton points out that the Board is considering information received tonight against its own policies as well as information the abutters have not have the opportunity to review.

Jim S. states nothing can be determined based on information received tonight.

Discussions continue among those present regarding additional noise from co locators and that co locators must meet the standards when they come before the Board.

Frank states that people may be surprised at what 47 dB really is. Ms. Franks would like a demonstration of what 47 dB is. She believes 50 dB is the standard in Portland and that allows bars to crank music.

Dave asks what the minimum amount of time between tests of the generator is. Ms. Frank states the ordinance states it cannot create a nuisance for abutters.

Jim S. moves on to Item C. Vehicular Access – he states he feels the Board should request the pull out area be plowed during the winter. Jim S. states the other question is the blasting and that is why they have changed from underground utilities to overhead utilities.

Dave states he is concerned about them not plowing the road. Ms. Frank asks what about if there is a fire at the building. Bob Gashlin stated none of the tower roads are plowed.

Jim S. asks if there is a suppression system in the building. Bob Gashlin states there is. Jim S. states, again, the Board may wish to request a condition of approval be that the pull out area be plowed.

Item D – Parking and Circulation is okay.

Item E – Surface Water Drainage – okay, but the Board may want some kind of assurance that maintenance on the driveway is done annually. The Board will want a report and someone who is responsible to maintain the driveway. Jim S. asks if that falls back on the landowner or AT&T. Bob Gashlin states it is AT&T's responsibility. Dave asks for it to be a condition of approval so the Board has something to ensure it is enforced.

Item F. Utilities – They have changed from underground to overhead utilities to minimize blasting although it will require additional tree cutting.

Item G. Advertising Features – Okay.

Item H. Special Features – This will follow industry standards of preblast surveys and a blasting plan. This may also be a condition of approval. Foundations and wells are big concern here. Preblast surveys need to be conducted on abutters' homes including wells. Bob Gashlin states they are happy to inspect whatever they need to and asks if it is part of the code. Jim S. states the Board can further request any preblast surveys be done to all abutting properties foundations and wells, etc. The Board would like preblast surveys on the Horton property, the Cosgrove property and the Symonds property.

Item I. Exterior lighting – Okay, the light is a motion detection light.

Item J. Emergency Vehicle Access – Winter conditions are the biggest issue with this. Jim S. asks if Emergency Departments will have access to the gate combination or key or do they just chop their way in. Bob Gashlin states they have always chopped the chains to gain access to their locations.

Item K. Landscaping – okay.

Item L. Environmental Considerations – Jim S. states this will be addressed in future submissions. Jim S. continues that by switching from diesel to propane to operate the generator will greatly reduce the noise and lessens the environmental impact of well contaminations.

Jim S. states he doesn't feel it is a good idea for the Board to vote at this juncture and suggests the matter be tabled and continued at the next meeting.

Bill Horton asks if Tamarack Trail will be closed off during construction. Bob Gashlin states it will not; the access road is built first. Dave asks if they will be contracting with local guys for the project. Bob Gashlin states he does not know yet. Bob continues that they can also utilize the gravel area at the Symonds' house behind the shop to park heavy equipment.

Bill asks how they are going to get the building up there. Mr. Hobbins states some places they bring them in by helicopter.

Dave states the Board can require they don't block off Tamarack Trail.

Donna moves that we table this matter and continue at the next regular meeting of the Board.

Jim M. seconds.

Any discussion? None.

All in favor? 5 yes – 0 no

Bill Horton returns to the table.

Donna moves to turn the meeting over to Bill.

Lynne seconds.

Any discussion? None.

All in favor? 5 yes – 0 no

Camp Sunshine application is a continuation from last meeting.

Matt Hoidal, Executive Director of Camp Sunshine, again introduces himself to the Board. He continues that he has a letter from Point Sebago regarding the tree cutting and the project itself. He also has the recorded Deed between Point Sebago (Lawrence Gould Casco Realty Trust) and Camp Sunshine as well as a recorded Partial Release of Mortgages from TD Bank, N.A. as it relates to Point Sebago and Camp Sunshine.

Mr. Hoidal next introduces Dave Kamila, Patrick Clark and Joe Chabot who are assisting Camp Sunshine with their application.

He then turns the presentation of the application over to Dave Kamila.

Mr. Kamila begins by reviewing the revised plans with the Board. He states that the additional entrance was done at the request of the Fire Marshal. Further, Notes 20 and 21 have been added as follows:

“20. Contractor shall be provided a copy of the D.E.P. site location permit issued for this project, including all conditions, and shall comply with same in execution of the work hereon.”

“21. See CCRD Book 27993, Pages 303-305, dated August 12, 2010, for Trustee’s Deed, and CCRD Book 27999, Page 197-199, dated August 12, 2010 for Partial Release of Mortgages.”

Joe Chabot states they added a small porch and stairs to accommodate the additional entrance as required by the Fire Marshal.

Bill asks if there are any changes in the parking. He is advised there is not.

Frank states Note 17 says it is served by public water and sewer and asks since when. Dave Kamila states that has to be corrected, it is private well and sewer.

The Board discusses the sitewalk and asks if anyone knows what the 2 4” plastic stubs are in front of the courts? No one is positive what they are, but believe they are releases for septic.

Donna asks if they have received D.E.P. approval. Pat Clark states they have not.

Jim S. directs the Board to his September 30, 2010 Memo which was review of the late submitted items. First, the Board may wish to require test pits for the soils. Jim S. continues, at the last meeting there were some concerns about the septic issue and he recommends a Note on the plan “The Applicant shall submit annual reports of sewer and water flow rates to the Code Enforcement Officer (CEO), and any excessive flows above the designed capacity of the wastewater disposal system will require an immediate inspection and review by the CEO. If the CEO determines that the system has failed due to overuse and or under design then the applicant shall submit to the Planning Board an amended site plan to modify, expand, or replace the disposal system or limit housing residents.”

Jim states he has suggested several conditions of approval for the Board’s consideration in pages 2 & 3 of the September 30, 2010 Memo.

Dave Kamila states the elevation will be fairly level and therefore not much grade change to the area.

Jim S. stated they may want a note that they won't impede the flow of the water.

Donna asks how it will affect the runoff. Dave Kamila state it is a filtration system and it will infiltrate water so it doesn't create any sheeting. Pat Clark states you can take a 50 gallon drum and turn it over and it will do into the filtration system quickly and not create any standing water or runoff. It can handle 20" per hour drain off.

Jim S. states if the Board is satisfied, he feels they can make a Conditional Approval.

Bill asks for a motion.

Dave moves to grant site plan approval with the conditions set forth in Jim Seymour's Memo dated September 30, 2010 as follows:

1. The applicant shall provide the Town with all state and federal approvals including but not limited to Maine DEP approvals for Stormwater Permits, Amended Site Location permits, and all amended Subsurface Wastewater Disposal System approvals.
2. The applicant shall provide the Town, actual test pit evaluations of soil conditions, to verify infiltration rates, conditions for adequate recharge, to include but not limited to disclosure of ledge, restrictive soils, or groundwater prior to construction/installation of any stormwater infiltration systems.
3. The applicant shall place an additional catch basin/F-basin in at the drip edge near the low point of the parking corner (between the corners of Building B and C). Again the concern is of shallow channeled runoff flowing directly to the foundation, while carrying sediment which could eventually restrict flow through the drip edge and pond near the foundation. Final plans shall have top of foundation grades and foundation outlet inverts elevations.
4. Direct foundation outlets parallel to the property line, to avoid channeling directly into the lower adjacent parcel with seasonal homes.
5. The applicant shall provide a detail of the pervious surface access grading, and sediment protection from cuts and fills.
6. The applicant shall preserve as much mature tree growth between the edge of proposed pervious access and the existing wood fence. The applicant shall be responsible for maintaining the wood fence, and in the event that mature trees are removed, they shall replant with similar coniferous species such that there is no gap greater than 20 linear feet between any trees parallel to the fence line.
7. The Applicant shall submit annual reports of sewer and water flow rates to the Code Enforcement Officer (CEO), and any excessive flows above the designed capacity of the wastewater disposal system will require an

immediate inspection and review by the CEO. If the CEO determines that the system has failed due to overuse and or under design then the applicant shall submit to the Planning Board an amended site plan to modify, expand, or replace the disposal system or limit housing residents.

8. The applicant shall submit a stamped/sealed State of Maine licensed surveyor's statement to the Town of Casco Code Enforcement Officer indicating that the proposed building foundation's field layout meets the required zoning side yard setbacks, and that they constructed building setbacks as required by the Code Enforcement Officer also meet all zoning yard setbacks.

9. Note #17 be corrected to private well and septic.

Donna seconds.

Any discussion? Pat Clark asks where Jim S. would like the additional catch basin located. Jim S. shows Pat Clark on the drawings and Pat agrees they will add a third discharge pipe.

All in favor? 6 yes – 0 no

Lynne moves to adjourn.

Donna seconds.

Any discussion? None.

All in favor? 6 yes – 0 no